

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN

*Charles Witham #732101*

(Enter above the full name of the plaintiff(s), including prisoner number, in this action. If you cannot list all plaintiffs in the space provided, please write "see attached" and list all names on an additional page.)

v.

*UNKNOWN PILOTS OFFICER);  
UNKNOWN BENNICKSON (LWARD);  
KATHERINE WEST (WURSE).*

(Enter above the full name of the defendant(s) in this action. If you cannot list all defendants in the space provided, please write "see attached" and list all names on an additional page.)

**COMPLAINT**  
(Print Clearly)

**I. Previous Lawsuits**

**CAUTION:** The Prison Litigation Reform Act has resulted in substantial changes in the ability of incarcerated individuals to initiate lawsuits in federal courts without prepayment of the civil action filing fee. Accurate and complete responses are required concerning your litigation history. Generally, a plaintiff's failure to accurately and completely answer the questions set forth below will result in denial of the privilege of proceeding *in forma pauperis* and require you to pay the entire \$405.00 filing fee regardless of whether your complaint is dismissed.

- A. Have you ever filed a lawsuit while incarcerated or detained in any prison or jail facility? Yes  No
- B. If your answer to question A was yes, for each lawsuit you have filed you must answer questions 1 through 5 below. Attach additional sheets as necessary to answer questions 1 through 5 below with regard to each lawsuit.

1. Identify the court in which the lawsuit was filed. If it was a state court, identify the county in which the suit was filed. If the lawsuit was filed in federal court, identify the district within which the lawsuit was filed.

*n/a*

2. Is the action still pending? Yes  No

a. If your answer was no, state precisely how the action was resolved: \_\_\_\_\_

*n/a*

3. Did you appeal the decision? Yes  No

4. Is the appeal still pending? Yes  No

a. If not pending, what was the decision on appeal? \_\_\_\_\_

*n/a*

5. Was the previous lawsuit based upon the same or similar facts asserted in this lawsuit? Yes  No

a. If so, explain: \_\_\_\_\_

**FILED - GR**

May 23, 2024 12:52 PM

CLERK OF COURT

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY:JMW SCANNED BY: *FB/5/23*

**II. Parties****A. Plaintiff(s)**

Enter your name, place of confinement, address, and place of confinement during the events described in the complaint in the blanks below. Provide the same information for any additional plaintiffs. Attach extra sheets as necessary.

Name of Plaintiff Charles Witham  
 Place of Present Confinement Bellamy Creek Correctional Facility  
 Address 1727 W. Blawie St Hwy., Jonia, MI 48846  
 Place of Confinement During Events Described in Complaint Jonia, MI

**B. Defendant(s)**

Complete the information requested below for each defendant in this action, including whether you are suing each defendant in an official and/or personal capacity. Provide the same information for each additional defendant. If there are more than six defendants attach extra sheets as necessary.

Name of Defendant #1 "See Attachment"

Position or Title \_\_\_\_\_

Place of Employment \_\_\_\_\_

Address \_\_\_\_\_

Official and/or personal capacity? \_\_\_\_\_

Name of Defendant #2 "See Attachment"

Position or Title \_\_\_\_\_

Place of Employment \_\_\_\_\_

Address \_\_\_\_\_

Official and/or personal capacity? \_\_\_\_\_

Name of Defendant #3 "See Attachment"

Position or Title \_\_\_\_\_

Place of Employment \_\_\_\_\_

Address \_\_\_\_\_

Official and/or personal capacity? \_\_\_\_\_

Name of Defendant #4 \_\_\_\_\_

Position or Title \_\_\_\_\_

Place of Employment \_\_\_\_\_

Address \_\_\_\_\_

Official and/or personal capacity? \_\_\_\_\_

Name of Defendant #5 \_\_\_\_\_

Position or Title \_\_\_\_\_

Place of Employment \_\_\_\_\_

Address \_\_\_\_\_

Official and/or personal capacity? \_\_\_\_\_

III. Statement of Claim

State here the facts of your case. Describe how each defendant is personally involved. Include also the names of other persons involved, dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Do not include unrelated claims. Use as much space as you need. Attach extra sheets if necessary.

Plaintiff Witham

is an amputee prisoner with "One Arm" during a medical run, while Beatty transferred to Health Care, wore his two-armed winter coat provided by the State Correction Department. However, during the transfer to Piagoff began to take the "left sleeve" of the coat and "smack Witham on the butt," etc. repeatedly while making "sexual remarks" w/ guard Benwickson. Such remarks and functioning violated the 4th, 14th Amendments of the United States Constitution; and the American Disabilities Act.

" See more w/ attachment"

West (Nurse) she's Beatty sued because when I was attempting to seek Health care / treatment West began to discuss my medical records w/ CPO Piagoff who then began to taunt me, these are violations of HIPPA act analogous to MDOC policy 04.03.000 as well.

" See more w/ attachment"

IV. Relief

State briefly and precisely what you want the court to do for you.

Witham seek \$300,

000 (Three Hundred Thousand Dollars) in  
monetary damages; Witham all seek jury  
trial for all Defendants. In addition,  
Witham seek injunctive relief in the form  
of proper enforcement and proper placement  
of service medical need.

V. Notice to Plaintiff Regarding Consent

In accordance with the provisions of 28 U.S.C. § 636(c) and Federal Rule of Civil Procedure 73, you are hereby notified that the United States magistrate judges of this district court may, upon your consent, conduct any or all proceedings in this case, including a jury trial and entry of a final judgment. If you consent, any appeal from a judgment entered by a magistrate judge shall be taken directly to the United States Court of Appeals for this judicial circuit in the same manner as an appeal from any other judgment of a district court.

Magistrate judges have greater flexibility in their schedules than district judges, who have heavy criminal caseloads that take priority over civil trials. Accordingly, the magistrate judges are generally able to schedule prisoner civil rights cases for jury trial much sooner, and they are able to provide firm trial dates. Magistrate judges are experienced trial judges who handle a great number of prisoner civil rights cases.

Your decision to consent to the dispositive jurisdiction of a United States magistrate is entirely voluntary. If you do not consent to a magistrate judge, the case will be randomly assigned to a district judge. The magistrate judge already assigned to this case would continue to decide all pretrial matters and would handle all dispositive motions by report and recommendation.

Please check **ONE** box below to indicate whether you voluntarily consent to proceed with a United States magistrate judge or if you would instead prefer that the case be assigned to a district judge.

- I hereby voluntarily consent to the United States magistrate judge conducting all proceedings in this case, including entry of a final judgment and all post-judgment matters.
- I request that this case be assigned to a district judge.

5-15-24

Date

Signature of Plaintiff

NOTICE TO PLAINTIFF(S)

The failure of a pro se litigant to keep the court apprised of an address change may be considered cause for dismissal.

The United States District Court  
Western District  
Northern Division

Charles Witham #732101  
Plaintiff (proper)

V. Case No. \_\_\_\_\_

UNKNOWN PITTSOFF (WARD),

UNKNOWN BENNICKSON (WARD),

KATHERINE WEST (NURSE),

Defendants.

"jury trial &

Injunctive relief  
demanded."

American Disability Act

42 U.S.C. § 12132

HiPPA Act. 42 U.S.C. § 1983

Plaintiff Charles Witham is a Handicapped  
prisoner due to "ONE ARM". HE CLEARLY QUALIFIES  
under ADA, AND 29 U.S.C. § 703(7)(B) AS A PERSON  
WITH A PHYSICAL OR MENTAL IMPAIRMENT, THAT LIMITS  
ONE OR MORE MAJOR LIMITS ON SIZE. HOWEVER, HEREIN  
Defendants WHO ACCEPT AND RECEIVE FEDERAL FUNDING  
Conduct REPEATEDLY VIOLATE FEDERAL LAW AND DEFEND-  
ANTS CONSTITUTIONAL RIGHTS AS WELL.

1. Jurisdiction: 42 U.S.C. § 1983, 28 U.S.C. § 1331 AND 1334; 28 U.S.C. § 1851.
2. All Defendants Acted under color of State Law.
3. All Defendants are being sued in their "individual" And "official" capacity due to ADA CLAIMS.
4. No HABEAS CORPUS NOT AVAILABLE.
5. Plaintiff, Williams seek Monetary or Compensatory Damages; And injunction relief in the form of "Medical Record" Confidentiality and placement to service his Handicap.
6. Parties: Plaintiff Charles Williams #732101, A prisoner, can be located at Bellamy Creek Correctional Facility, 1727 W. Bluewater Hwy., Jonia, MI 48846.
7. Defendants unknown pilot off (LAWARD); unknown BENNICKSON (LAWARD); AND KATHERINE WEST (LAWARD). Can be located at Bellamy Creek Correctional Facility, 1727 W. Bluewater Hwy., Jonia MI 48846.

## Statement of Facts

8. ON/Around the Week of February 12, 2024 plaintiff Witham (hereafter "Witham") Had a dental appointment, and was escorted to this dental appointment by both defendant Pibroff and Bennickson who were guards. During transporting Witham Pibroff began to take the left empty sleeve and first "Swank" Witham "Butt" (Ass) and say over and over that Ass is Mine!"

9. Pibroff then took the left empty arm sleeve and put Around Witham's neck stating "I choke my brother too!"

10. Witham Have no left arm, however, was belly-chained with his only right arm attached to his body with belly chains.

11. Defendant Bennickson cheered on the behavior and sexual assault being committed against Witham and said: "I'd feel You, this boy looks to have some good ass!" At no relevant time did Bennickson stop Pibroff from Swanking Witham on His butt or pulling the armless sleeve Around Withams Neck.

12. After returning from the dental appoint -

Menf C/O Pibbott confirmed his sexual desire with Witham, so Witham filed a prer. prea means: PRISONERS RAPE ELIMINATION ACT. And Witham filed several complaints with prison Warden. However, nothing seemed to get in Pibbott's way or stop Pibbott from what he wanted.

13. Witham began to record Pibbott's acts of sexual abuse:

ON 2/24/24 at 8:20 AM, comment: ("YOU HAVE PRETTY EYES"); 10:42 AM ("TAKE DOWN YOUR COVERS OFF THE WINDOW BABY"); 1:20 PM ("WHY YOU ACTING LIKE THAT COME ON NOW"); 1:22 PM ("COME RIGHT BACK SMILE AT ME"); 1:42 PM ("SEE YOU TOMORROW").

ON 2/25/24 (THE VERY NEXT DAY) AT 1:29 PM COMMENT: "I BEEN BUSY ON MY WING. I'M STILL HERE BABY!"

ON 2/26/24 (THE VERY NEXT DAY) AT 1:11 PM COMMENT: "WHAT HAVE I DONE? THIS HOW YOU DO ME?"

ON 2/28/24 AT 8:41 AM Pibbott

panel on door, says "DADDY'S HERE,  
COME HERE BABY". At 11:10 AM  
return says: What's wrong with you?"

2/29/24 9:40 AM comment: "You need  
anything?" at 9:43 AM come back to  
tell comment: "If I HAVE to take it  
RUFF, I can make it RUFF for you!"

3/2/24 At 11:00 AM, 11:04 AM, 11:05  
AM, 12:37 AM; 1:33 AM camera  
evidence show Pitkoff's strong pursuit.

3/4/24 pitkoff's return, comment:  
Who are your feelings? Are you being a  
switch, 20 years ago I would HAVE  
had you in my arms by now! (sic). At  
11:05 AM

3/8/24 At 8:40 AM, 9:23 AM, 11:45 AM,  
1:03 PM, 1:32 PM, pitkoff APPEARS to  
be agitated and becomes threatening  
saying "Okay you won't be going home  
anytime soon!"

14 (1) pitkoff is not (Emphasis added) is not  
the guard appointed to withdraw his fire at no time.

15. Witham recorded as many incidents as he can during during an department investigation video evidence would support proofs of Piagoff's strong sexual pursuit w/ Witham.

16. On/Around April 16, 2024 Piagoff is at Witham door, camera show he violently slammed window shutter.

17. Witham generated and filed PREA for an investigation to be lodged. However, Moreover, not one time was Witham interviewed.

See, Exhibit 1  
PREA Investigation

18. Not During the investigation no witnesses interviewed, not no camera evidence describing the initial act when C/o Piagoff snatched Witham's butt.

19. On/Around March 2, 2024 Piagoff threatened to push back Witham (RIS & Earliest Release Date) Witham immediately filed grievance #4BLC0557-28J, but was "Rejected" Modified access.

## HIPPA Act

20. On/Around February 23, 2024 Witham placed in his door a medical kit to Nurse West, instead Priboff take the medical out the door so far Nurse West allowed him to do so; Priboff begin to read the medical kit. Witham's medical information out loud?

21. In Witham's medical kit, he seek to be placed on MAT PROGRAM which is a program to cure illegal drug addictions. Witham believed since the ADA recognize "Drug Addiction" as a disability he could sought a form of treatment.

22. Priboff, however, read the medical kit out loud to be heard throughout the floor. Nurse West laughed and laughed; And then C/Priboff said: "West is seeing you now!" she said no!"

23. Witham filed grievance #JBL-0505-284, and the grievance was rejected at step I.

24. Witham never was evaluated for MAT programs

## Retaliation

25. As a result of Witham generating grievance

#BL 0505-283, gibbott exaggerated & misrepresented  
of disobeying direct orders (D.D.O.). During the  
Hearing Witham presented overwhelming AND  
strong evidence the misconduct was totally exaggerated.  
Ex. E.g.:  
The Camera show C/o gibbott at Wit-  
ham's cell at 8:10 AM;

HOWEVER, C/o gibbott claim the  
incident occurred at 9:00 AM.

The truth is no incident occurred at  
all and the D.D.O. A Class II Misconduct do not  
allow for prisoners Hearing Investigator, Witnesses  
or Video Evidence.

26. Witham was sentenced to 30 days loss of  
privileges (no yard, phone, or visits times). The  
U.S. Supreme Court in Sandin v. Conner, held when  
a prisoner is subject to 30 days of sanction HE HAS  
A "LIBERTY INTEREST" for a formal hearing. C/o  
gibbott knowing "No investigation" exist under a  
Class II Misconduct but 30 days sanction is the max  
penalty consistently rendered.

27. C/o gibbott, even today threaten prisoners  
who could be witnesses with Class II misconducts  
knowing "He can write charges without an adversary  
process or fest objectively provided." APPEAL DENIED.

## Legal Claims:

### CLAIM I.

28. Plaintiff Witham, re-alleges ¶¶ 8-20, and avers Defendants Priboff and Bennickson did maliciously and sadistically violate Prisoner Rape Elimination Act (PREA); and did violate American Disabilities Act (ADA); and did violate the 4th (securer in person) and 14th (equal protection of law) Amendments of U.S. Constitution by their acts of sexual misconduct, sexual assault, and "discrimination" of services and programs.

### CLAIM II.

29. Plaintiff Witham, re-alleges ¶¶ 20-24, and avers Defendants' Priboff and West did maliciously and sadistically violate HIPPA Act when: exposing medical records to non-medical staff including other prisoners for request of MAT programs, contrary to ADA, equal protection of laws under the 14th Amendment of United States Constitution.

### CLAIM III.

30. Plaintiff Witham, RE-ALLEGES §§ 25-27,  
AND AVERS, Defendant Pritchett DID MAJ-  
OROUSLY AND SADISTICALLY REHABILITATED WITHAM  
GENERATING AN EXAGGERATED MISCONDUCT  
DUE TO WITHAM WRITING A GRIEVANCE,  
CONTRARY TO THE 1ST AMEND. DRAFTED TO  
REDRESS) OF THE U.S. CONST.

### PRAYER UPON RELIEF

- A. JURY TRIAL DEMANDED.
- B. GRANT INJUNCTIVE RELIEF IN THE FORM OF  
PLACEMENT IN MEDICAL FACILITY.
- C. AWARD MONETARY DAMAGES IN "OFFICIAL"  
CAPACITY FOR ADA CLAIMS; AND DAMAGES  
"INDIVIDUALLY" FOR THE REMAINING CLAIMS,  
COMPENSATORY DAMAGES.

DATED: MAY 15, 2024

Charles W/L  
CHARLES WITHAM  
#732101

### Verification

I HAVE READ the foregoing complaint and  
hereby verify that the matters alleged therein

are true, except as to matters alleged  
in information and belief, and as to  
those, I believe them to be true. I  
certify under the penalty of perjury that  
the foregoing is true and correct.

executed at Lona, Michigan  
on May 15, 2024

Charles Williams  
CHARLES WILLIAMS #73201

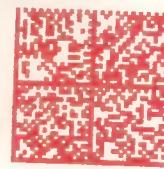
Charles William

No. 732101

Bellamy Creek Correctional Facility

1727 W. Bluewater Hwy.

Toronto, M2 4E8 46



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Grand Rapids, MI 49503